



CITY OF DULUTH

Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	PL 13-003	Contact	Steven Robertson, (218) 730 5295
Application Type	Special Use Permit	Planning Commission Date	November 10, 2014
Deadline for Action	Application Date	September 5, 2014	60 Days
	Date Extension Letter Mailed	October 22, 2014	120 Days
Location of Subject		218 East Central Entrance	
Applicant	Faulk and Foster (on behalf of Verizon)	Contact	
Agent	Ralph Wyngarden	Contact	ralph.wyngarden@faulkandfoster.com
Legal Description	Parcel ID 010-0360-00300		
Site Visit Date	November 1, 2014	Sign Notice Date	October 27, 2014
Neighbor Letter Date	October 27, 2014	Number of Letters Sent	11

Proposal

Applicant is applying for a Special Use Permit to expand an existing telecommunication facility. The applicant wants to add height, equipment shelter, and additional antennas.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-C	Commercial	Central Business Secondary
North	MU-C	Commercial	Central Business Secondary
South	R-1	Residential	Urban Residential
East	MU-C	Commercial	Central Business Secondary
West	MU-C	Commercial	Central Business Secondary

Summary of Code Requirements (reference section with a brief description):

UDC Section 50-37.10. Special Use Permits. The Planning Commission shall approve the application or approve it with modifications if the commission determines that the application meets the following criteria: 1. The application is consistent with the Comprehensive Land Use Plan; 2. The application complies with all applicable provisions of this Chapter, including without limitation any use-specific standards applicable to the proposed use, development or redevelopment, and is consistent with any approved district plan for the area; 3. Without limiting the previous criteria, the commission may deny any application that would result in a random pattern of development with little contiguity to existing or programmed development or would cause anticipated negative fiscal or environmental impacts on the community.

New telecommunications facilities that are located within the Migratory Bird Flight Path are limited to no more than 75 feet. This is defined as "the zone of jurisdictional land located from the Lake Superior and Saint Louis River shorelines to no less than two miles inland or where Skyline Parkway runs parallel to the shoreline, an area from the shoreline to Skyline Parkway or two miles inland, whichever is greater".

Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

Future Land Use, Central Business Secondary. An area adjacent to and supporting the primary central business area or a stand-alone area providing a similar mix of destination land uses but at a lower intensity than the primary CB area. Includes mixed regional and neighborhood retail, employment centers, public spaces, medium density residential, and public parking facilities.

In 2010, the City Council adopted a telecommunications ordinance revising the standards and process for approval of these type of facilities. Prior to the ordinance, a special use permit was only required for towers over 50 feet in height. Facilities less than 50 feet in height, or those located on roof tops, water towers, or similar structures, did not need a special use permit. A building permit was issued for this 49 foot monopole in late December 2009 (no special use permit required).

This site received a Special Use Permit in September 2012, PL 12-114, to expand the number of antennas from 6 to 9, for AT&T. Increasing the number of antennas, increasing the height of the structure, or adding new equipment (cabinets or generators) is considered an expansion of the use, and requires a special use permit. Switching out antennas (replacing old antennas with newer versions) is considered maintenance and does not need zoning approval.

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

- 1) Applicant is applying for a Special Use Permit to expand an existing telecommunications facility. The site was legally constructed without a special use permit (prior to the telecommunications ordinance in 2010). The applicant would like to expand the tower with an 11 foot extension (top of antenna at 68 feet), and add six additional antennas and cabinet equipment.
- 2) This application is for a modification to an existing telecommunications facility. The City adopted an ordinance in mid 2010 revising the regulation of telecommunication towers. When the UDC was amended in 2011, one of the changes involved modification of telecommunication facilities. The change essentially streamlined replacement of antennas; applicants could replace existing antennas with new, more modern, antennas of a similar size, needing only to apply for a building permit. However, adding more antennas or cabinet equipment would still require a Special Use Permit (as illustrated with PL 12-114).
- 3) The facility is within the Migratory Bird Flight Path, and is limited to no more than 75 feet in height.
- 4) Staff believe that there will be limited visual impact on adjacent properties. The increase in height (11 feet) and the addition of more antennas at the top will be visible, however. The Planning Commission can add reasonable conditions to the Special Use Permit to reduce conflicts. The last telecommunications facility approved by the Planning Commission was required to be stealthed (antennas within the structure, and designed to appear as a pine tree). Staff do not recommend additional screening in this specific instance, but that is a decision the Planning Commission can make.
- 5) The UDC encourages, wherever possible, the development of existing, legal, cellular telecommunications sites as well as the sharing and co-location of wireless telecommunications facilities among service providers. By expanding this facility, the applicant is providing additional capacity without constructing an additional tower.
- 6) The city has the ability to regulate land use, however, the FCC preempts local review on the potential environmental effects of radio frequency (RF) emissions, assuming that the provider is in compliance with the Commission's RF rules.
- 7) The code requires that new facilities be located on existing towers or other structures on city owned properties first, and then existing towers on other property, and then a new tower within city owned property. City staff consider this an expansion of a legally permitted facility, even though it did not receive a Special Use Permit when it was initially constructed. If this was a brand new facility, it would need to follow the priority list. The current site is approximately 330 feet from the nearest residential structure.
- 8) The City's telecommunications consultant provided significant guidance on reviewing this application. The consultant has submitted suggestions for conditions of the projects approval.
- 9) No comments were received from other city departments, other utilities, or governmental agencies.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

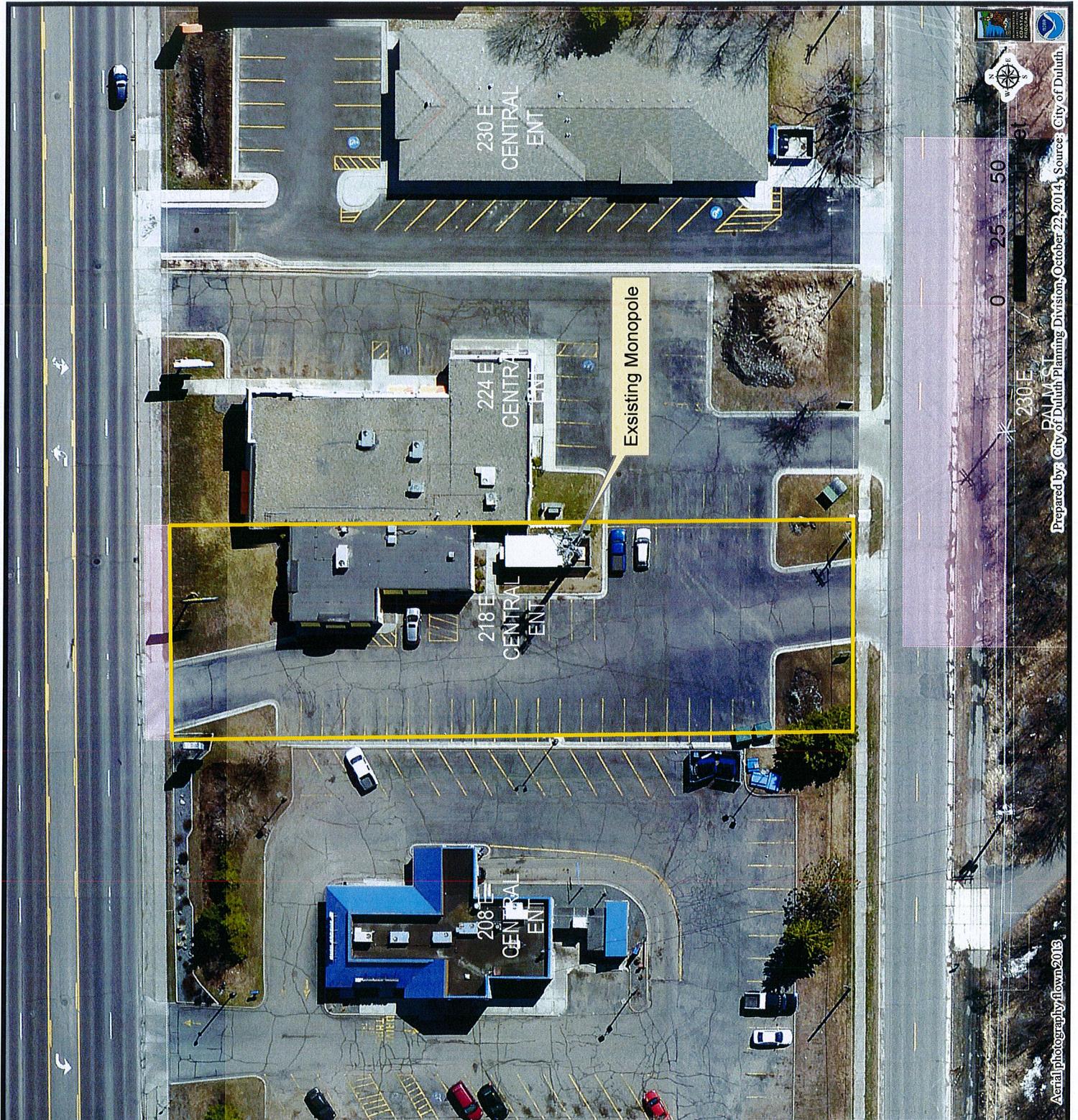
Based on the above findings, Staff recommends Planning Commission approve the Special Use Permit subject to the following:

- 1) The project be limited to, constructed, and maintained according to construction drawings titled "Duluth View Crest" signed 6/26/13.
- 2) Applicant complies with requirements of items identified in the October 8, 2014 document from Center for Municipal Solutions, including submitting temporary relief items prior to applying for a building permit (including NASI tower inspection, removal bond, tower information, geotechnical report, and structure analysis).
- 3) Applicant to do post-construction testing of the new facility to document that the site is in compliance with the FCC requirements, and provide a copy to the City.
- 4) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Per UDC 50-37.1.N, an approved Special Use Permit will expire if the project or activity authorized by the permit is not begun within 1 year.

Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)

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Legend

Parcels Boundaries

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.

Aerial photography flown 2013

Prepared by: City of Duluth Planning Division, October 22, 2014. Source: City of Duluth.

Legend

Parcels Boundaries

Future Land Use - Plus

Future Land Use

Preservation

Recreation

Rural Residential

Low-density Neighborhood

Traditional Neighborhood

Urban Residential

Neighborhood Commercial

Neighborhood Mixed Use

General Mixed Use

Central Business Secondary

Central Business Primary

Auto Oriented Commercial

Large-scale Commercial

Business Park

Tourism/Entertainment District

Medical District

Institutional

Commercial Waterfront

Industrial Waterfront

Light Industrial

General Industrial

Transportation and Utilities



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Aerial photography flown 2013

Prepared by: City of Duluth Planning Division, October 22, 2014. Source: City of Duluth.



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**CENTER FOR MUNICIPAL SOLUTIONS
2905 N. 169th Avenue, Omaha, NE 68116
Phone 402-861-5982 yhcinc@cox.net**

October 8th, 2014

Steven Robertson, Senior Planner
City of Duluth, Planning Division
411 W 1st Street, Room 208
Duluth, MN 55802

RE: Duluth MN Verizon 218 East Central Entrance

Dear Steven,

Based upon the submitted application and supplementary information we find the Application to be complete and ready for consideration by the City of Duluth. In the event that the Special Use Permit is granted, we recommend that it be subject to the following conditions.

Section 50-20.4 E Major Utility or Wireless Telecommunications Facility

Section k) Applicant has requested temporary relief to complete and provide an ANSI tower inspection to CMS and the City for review and approval prior to the issuance of a building permit. CMS recommends approval of this relief.

Section t) Applicant has requested temporary relief to provide a removal bond meeting the requirements of the ordinance to CMS and the City for review and approval prior to the issuance of a building permit. CMS recommends approval of this relief.

Section u) Applicant has requested temporary relief to provide an insurance certificate meeting the requirements of the ordinance to CMS and the City for review and approval prior to the issuance of a building permit. CMS recommends approval of this relief.

3.12 Checklist Requirements:

Tower information. Applicant has requested temporary relief to complete and provide the existing tower information to CMS and the City for review and approval prior to the issuance of a building permit. CMS recommends approval of this relief.

Geotechnical report. Applicant has requested temporary relief to complete and provide a geotechnical report with the structural analysis to CMS and the City for review and approval prior to the issuance of a building permit. CMS recommends approval of this relief.

Structural analysis. Applicant has requested temporary relief to complete and provide a structural analysis report meeting the requirements of the City to CMS and the City for review and approval prior to the issuance of a building permit. CMS recommends approval of this relief.

After construction CMS will complete a final inspection to verify that the construction is in conformance with the application. Applicant shall have sufficient funds in the escrow account to pay all expenses related to the final site review and inspections. Please provide us a copy of the Permit, if granted.

Sincerely,

Robert A. Naumann

YHC Inc. / Midwest Representative for CMS

Cc: Richard Comi (e-mail only)

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2012 Images



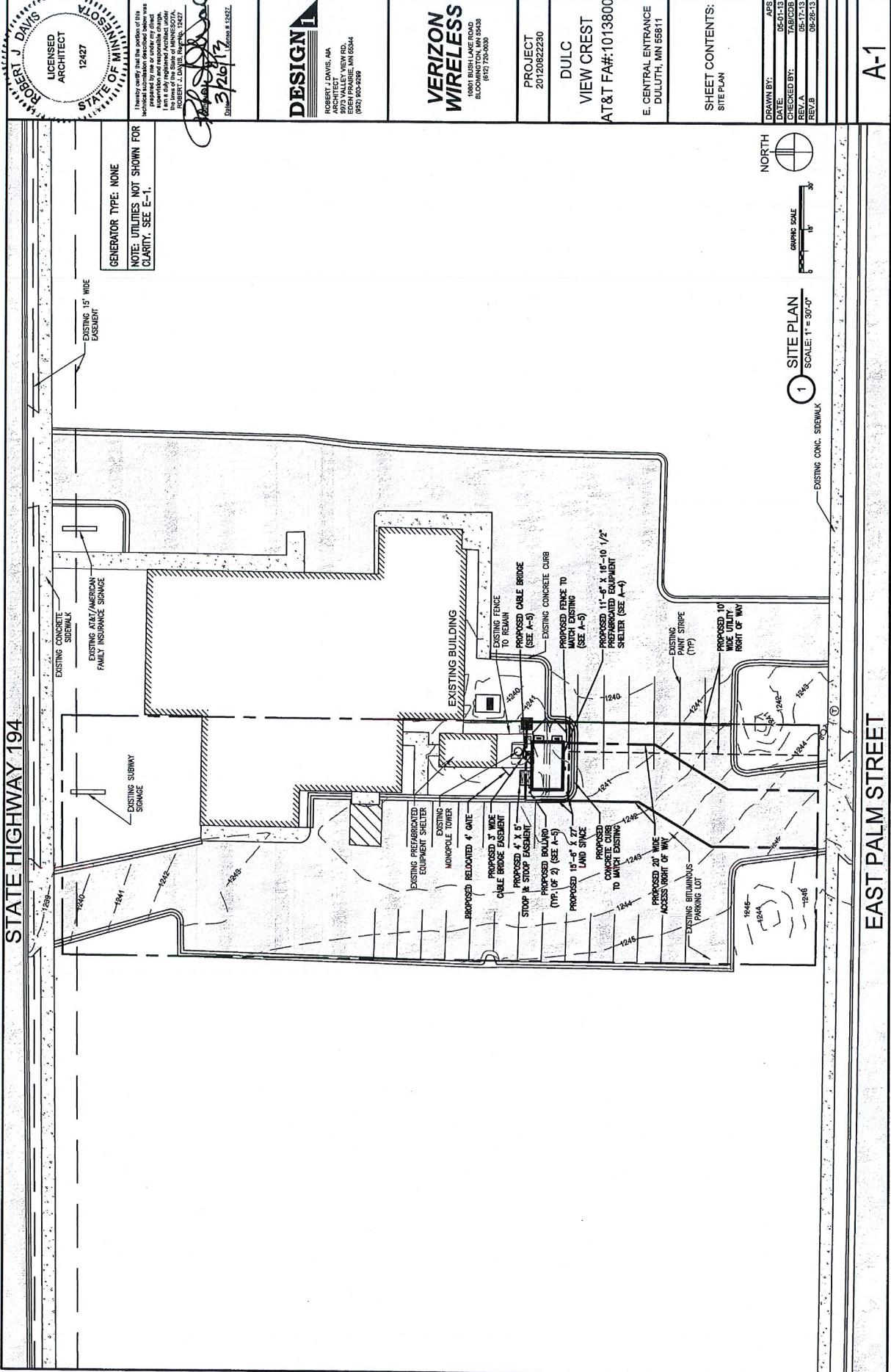
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VERIZON WIRELESS DEPARTMENTAL APPROVALS																																																										
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EXHIBIT A

T-1

H-9





NOTE: CONTRACTOR TO COORDINATE
PUBLIC AND PRIVATE UTILITY LOCATES
PRIOR TO CONSTRUCTION START. NOTIFY
THE ARCHITECT AND THE VZW
CONSTRUCTION ENGINEER IMMEDIATELY
OF ANY UTILITY LINE ISSUES.

DESIGN 1

ROBERT J. DAVIS, AIA
ARCHITECT
EDEN PRAIRIE, MN 55344
(612) 933-3239
[E-mail: rj.davis@msn.com]

VERIZON WIRELESS

1080 BUSH LAKES ROAD
BLOOMSBURG, PA 17815
(617) 734-5246

PROJECT
20120322230
DULC
VIEW CREST
AT&T FA#: 1013800
E. CENTRAL ENTRANCE
DULUTH, MN 55811

SHEET CONTENTS:
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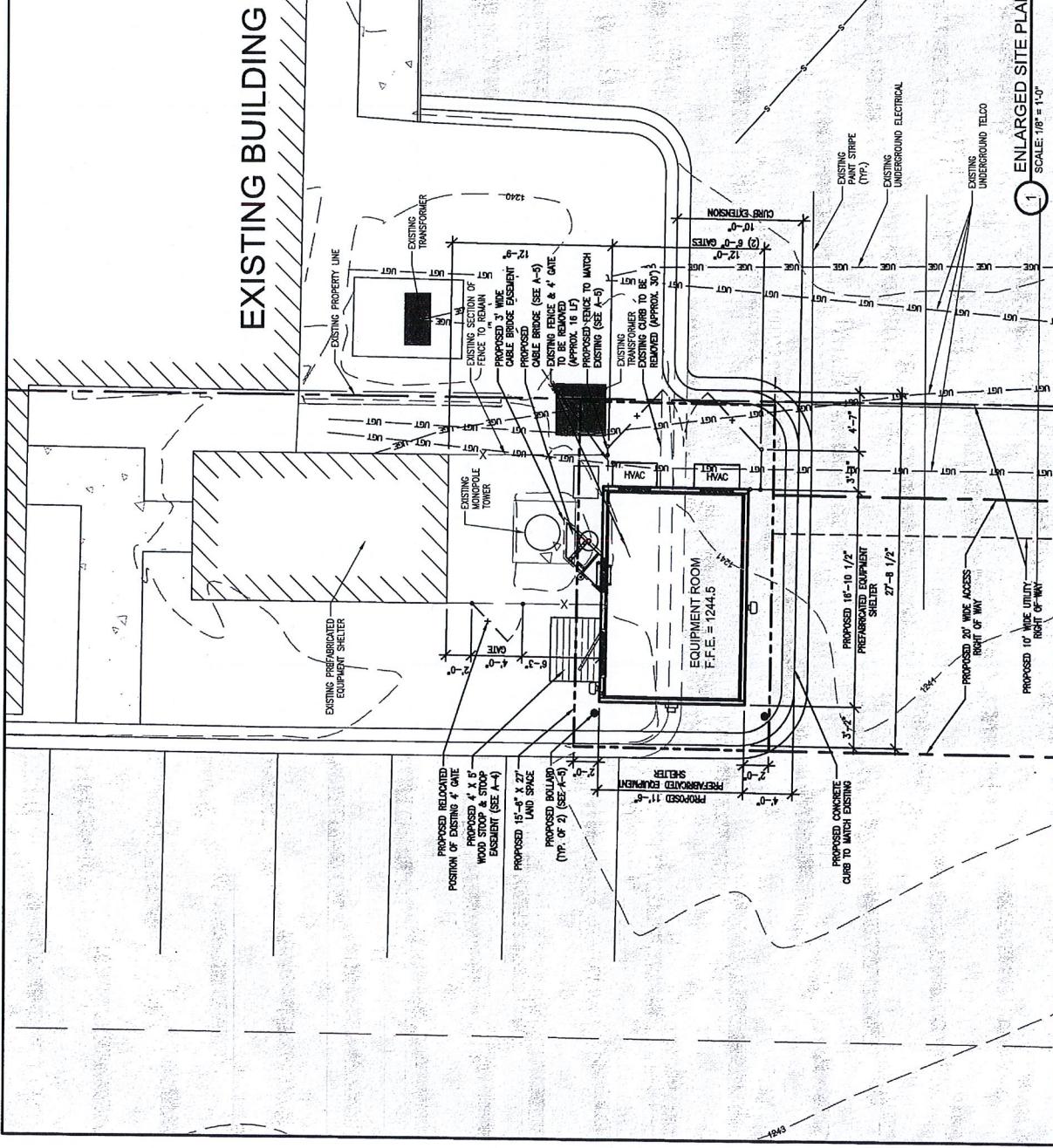
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DATE: 05-01-13
CHECKED BY: TAB/CB
REV. A
05-17-13
REV. B
05-26-13

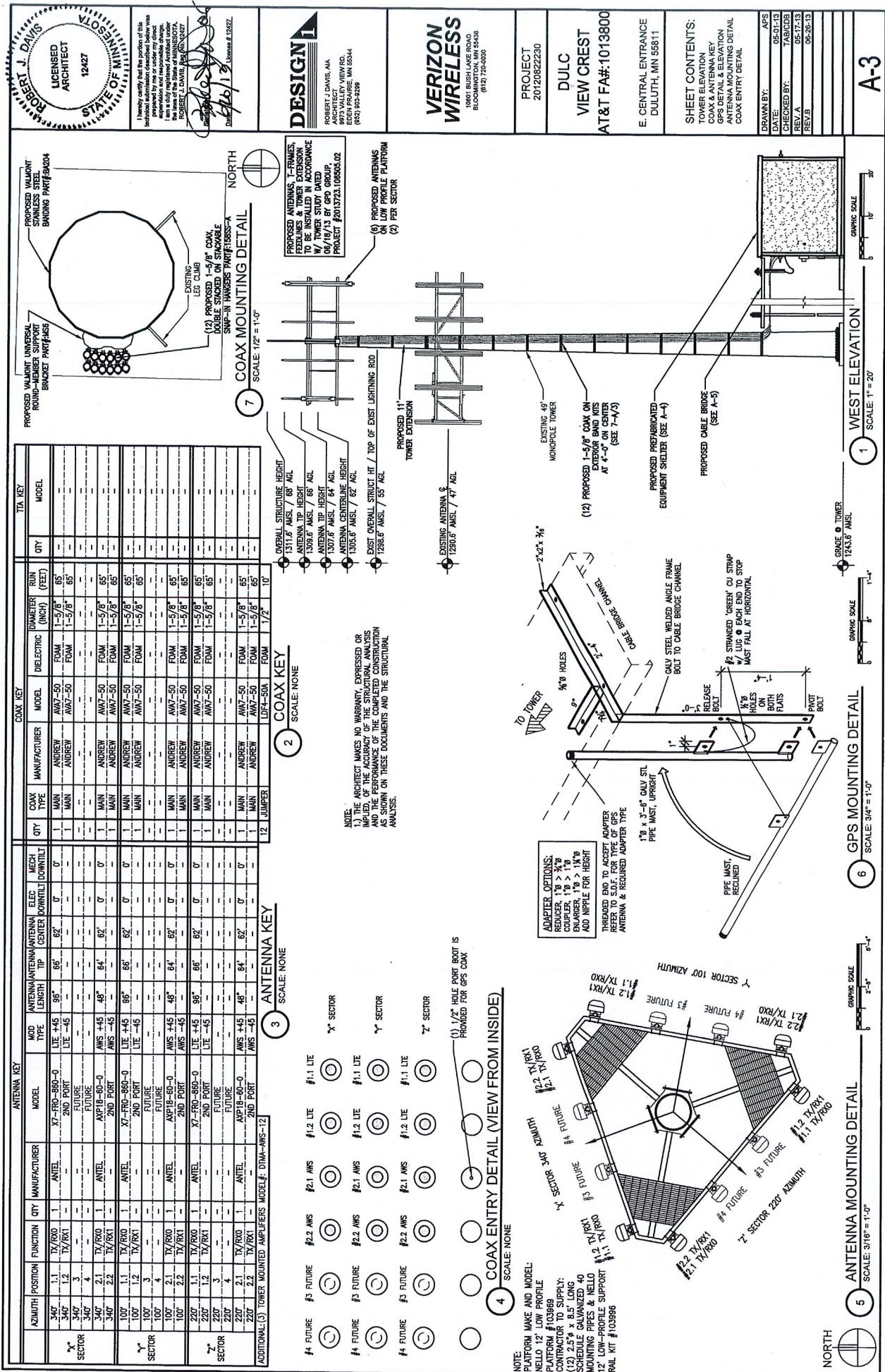
NORTH



GRAPHIC SCALE
1/8 = 1'-0"

A-2

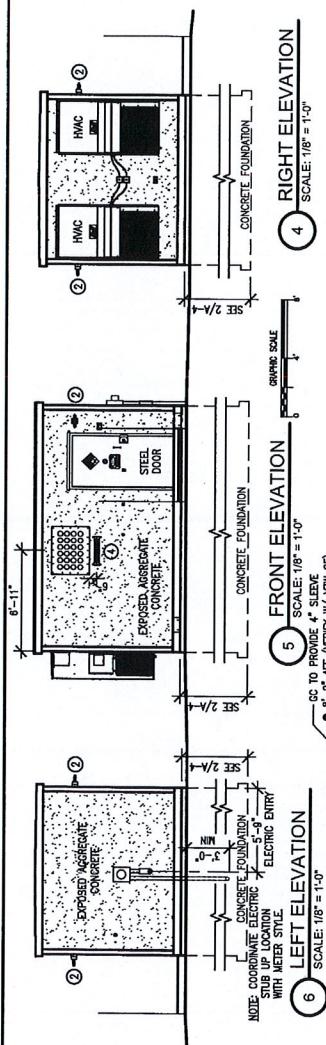






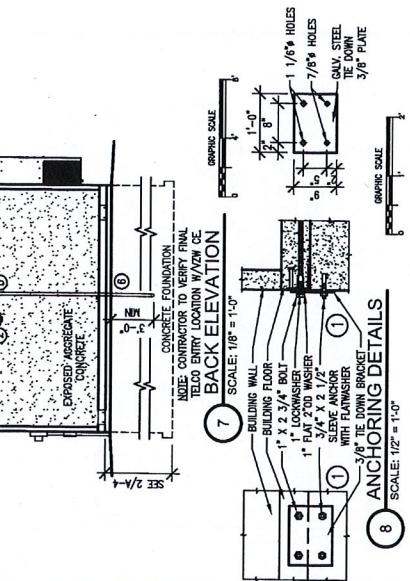
DESIGN 1

ROBERT J. DAVIS, AIA
ARCHITECT
9872 VALLEY VIEW RD.
EDEN PRAIRIE, MN 55344
(612) 949-5259



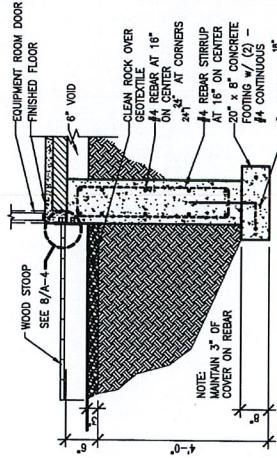
ANCHORING DETAILS

SCALE: 1/2" = 1'-0"



FLOOR PLAN

GRAPHIC SCALE



DESIGN 1

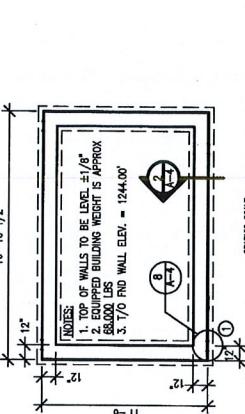
ROBERT J. DAVIS, AIA
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(612) 949-5259

VERIZON
WIRELESS

10010 RUSH LAKE ROAD
BLOOMINGTON, MN 55438
(612) 720-2000

FOUNDATION SECTION

GRAPHIC SCALE



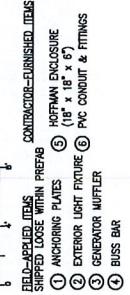
DULC

VIEW CREST
PROJECT # 201205222290
AT&T FA# 1013800

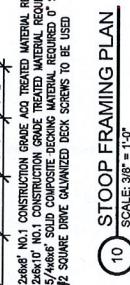
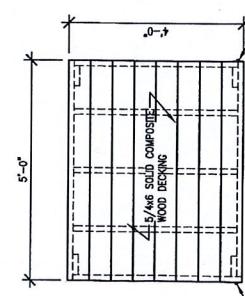
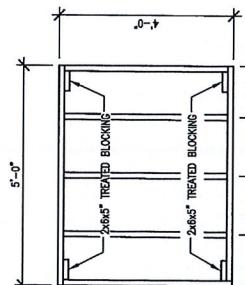
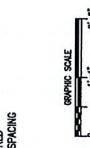
E. CENTRAL ENTRANCE
DULUTH, MN 55811

SHEET CONTENTS:
FOUNDATION PLAN & DETAILS
FLOOR PLAN
ELEVATIONS
ANCHORING DETAILS

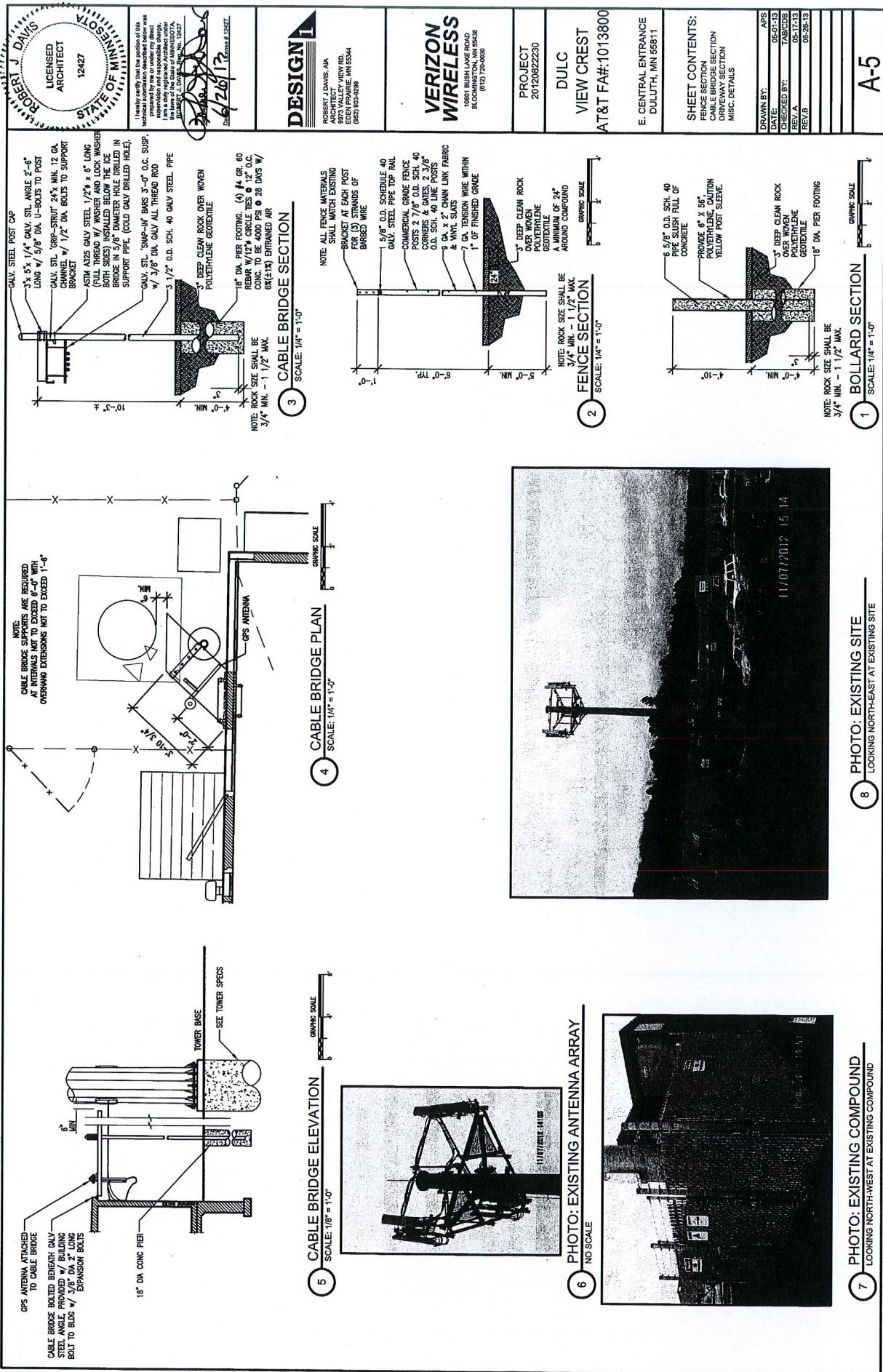
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DATE: 05-01-13
CHECKED BY: TABCOB
REV. A: 05-17-13
REV. B: 05-26-13
CONTRACTOR-FURNISHED ITEMS
SHIPPED LOOSE WITHIN PREPAB
EXPOSED AGGREGATE CONCRETE
FIBREBOND CORPORATION
1300 Development Drive
Minden, LA 71055
(601) 824-2814
ATTN: MIKE GOODMAN



A-4



H-13



DESIGN 1

**ROBERT J DAVIS, AIA
ARCHITECT
9973 VALLEY VIEW RD.
EDEN PRAIRIE, MN 55344
(852) 903-9289**

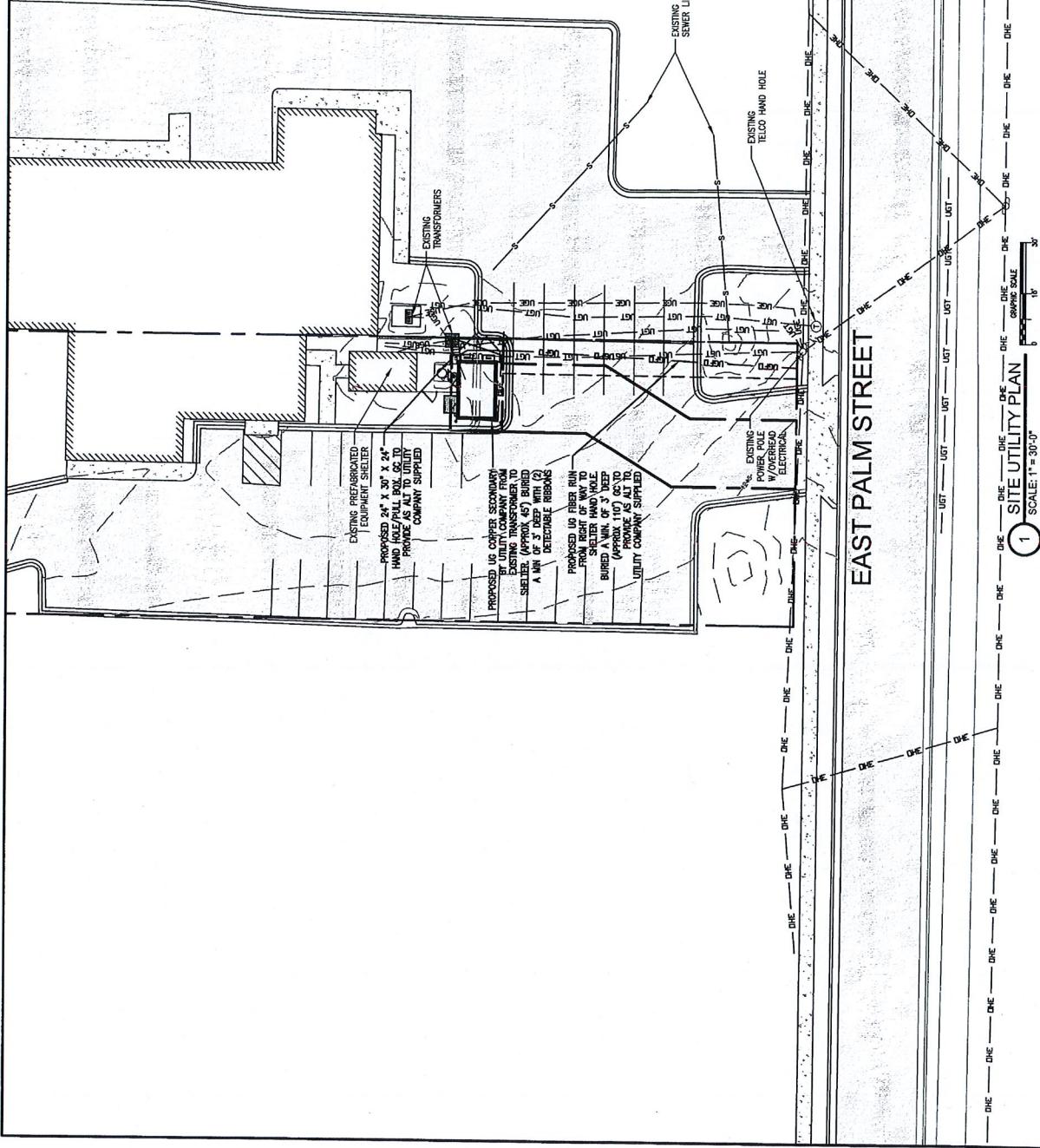
**VERIZON
WIRELESS**

PROJECT
20120822230
DII C

VIEW CREST
AT&T FA#: 101380

SHEET CONTENTS:

四



11-15

Bismarck • Cedar Rapids • Denver • Detroit Lakes • Fargo • St. Paul • Sioux Falls
4285 Lexington Ave. N.
St. Paul, Minnesota 55126
Phone: 651.415.3800 Fax: 651.415.2001
Web: www.ulieig.com

Ulteig

PHOTO SIMULATION

SITE: DULC VIEW CREST
CARRIER: VERIZON WIRELESS
SITE ADDRESS: E. CENTRAL ENTRANCE, DULUTH, MN



Ulteig Job Number: 13.00314

SITE LOCATION MAP
NOT TO SCALE
EXHIBIT B

4-17



View Type: Original Photograph - View 1

Site Address: East Central Entrance

City: Duluth **State:** MN

Site Name: DULC VIEW CREST

View Description: Looking northwest at proposed equipment shelter and tower extension with antennas.



View Type: Simulated Photograph - View 1

Site Address: East Central Entrance

City: Duluth **State:** MN

Site Name: DULC VIEW CREST

View Description: Looking northwest at proposed equipment shelter and tower extension with antennas.

Page 2 of 8

***Disclaimer:** This picture is an artist's rendition of the completed site layout prior to construction. The completed construction may vary in layout, dimension, and color from the above picture.*

4-19



View Type: Original Photograph - View 2

Site Address: East Central Entrance

City: Duluth **State:** MN

Site Name: DULC **VIEW CREST**

View Description: Looking north at proposed equipment shelter and tower extension with antennas.

14-20



View Type: Simulated Photograph - View 2

Site Address: East Central Entrance

City: Duluth **State:** MN

Site Name: DULC VIEW CREST

View Description: Looking north at proposed equipment shelter and tower extension with antennas.

Disclaimer: This picture is an artist's rendition of the completed site layout prior to construction. The completed construction may vary in layout, dimension, and color from the above picture.

H-21



View Type: Original Photograph - View 3

Site Address: East Central Entrance

City: Duluth **State:** MN

Site Name: DULC VIEW CREST

View Description: Looking east at proposed equipment shelter and tower extension with antennas.

11-22



View Type: Simulated Photograph - View 3

Site Address: East Central Entrance

City: Duluth **State:** MN

Site Name: DULC VIEW CREST

View Description: Looking east at proposed equipment shelter and tower extension with antennas.

Disclaimer: This picture is an artist's rendition of the completed site layout prior to construction. The completed construction may vary in layout, dimension, and color from the above picture.

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View Type: Original Photograph - View 4
Site Address: East Central Entrance
City: Duluth **State:** MN
Site Name: DULC VIEW CREST
View Description: Looking southeast at proposed equipment shelter and tower extension with antennas.

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View Type: Simulated Photograph - View 4

Site Address: East Central Entrance

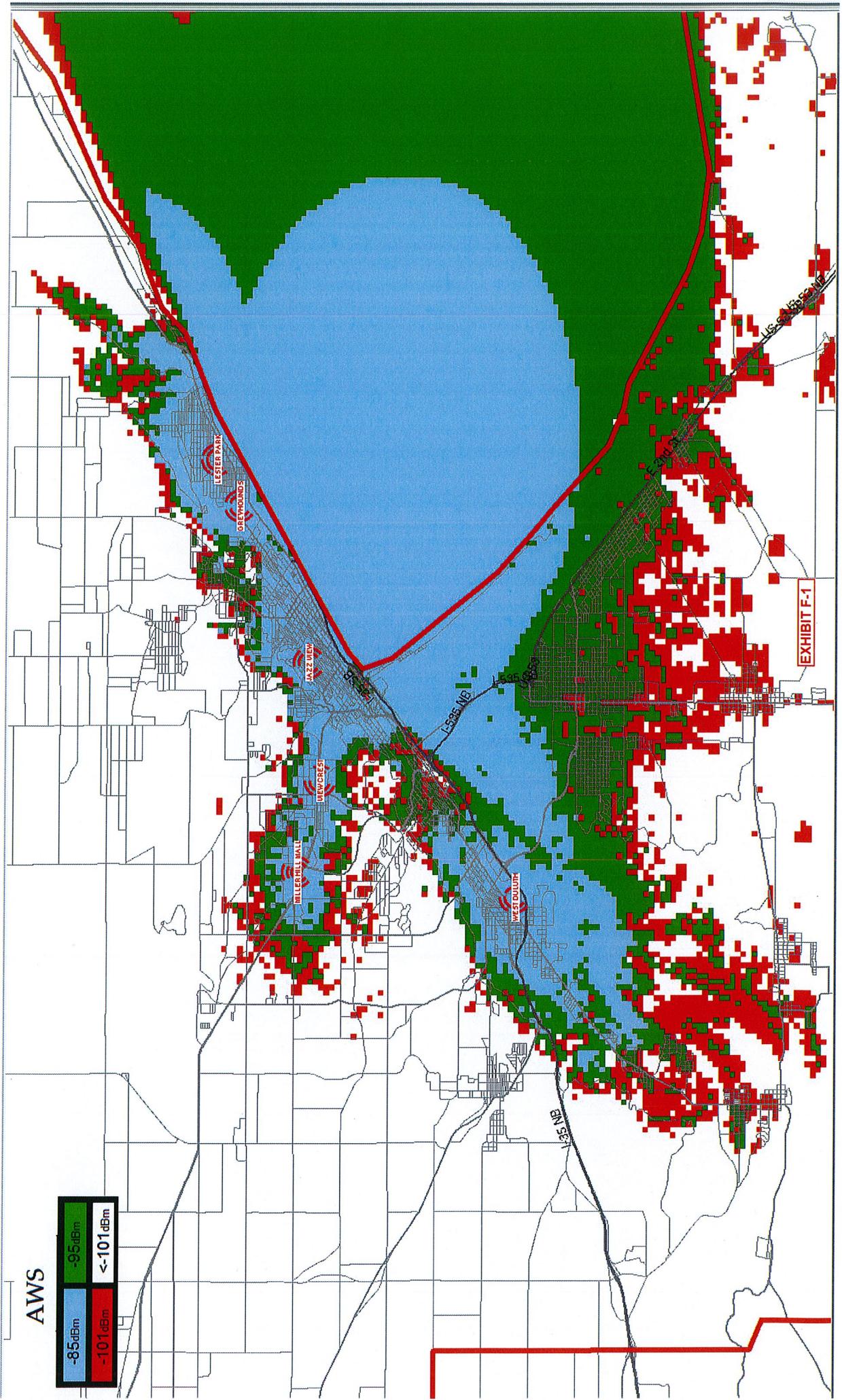
City: Duluth **State:** MN

Site Name: DULC VIEW CREST

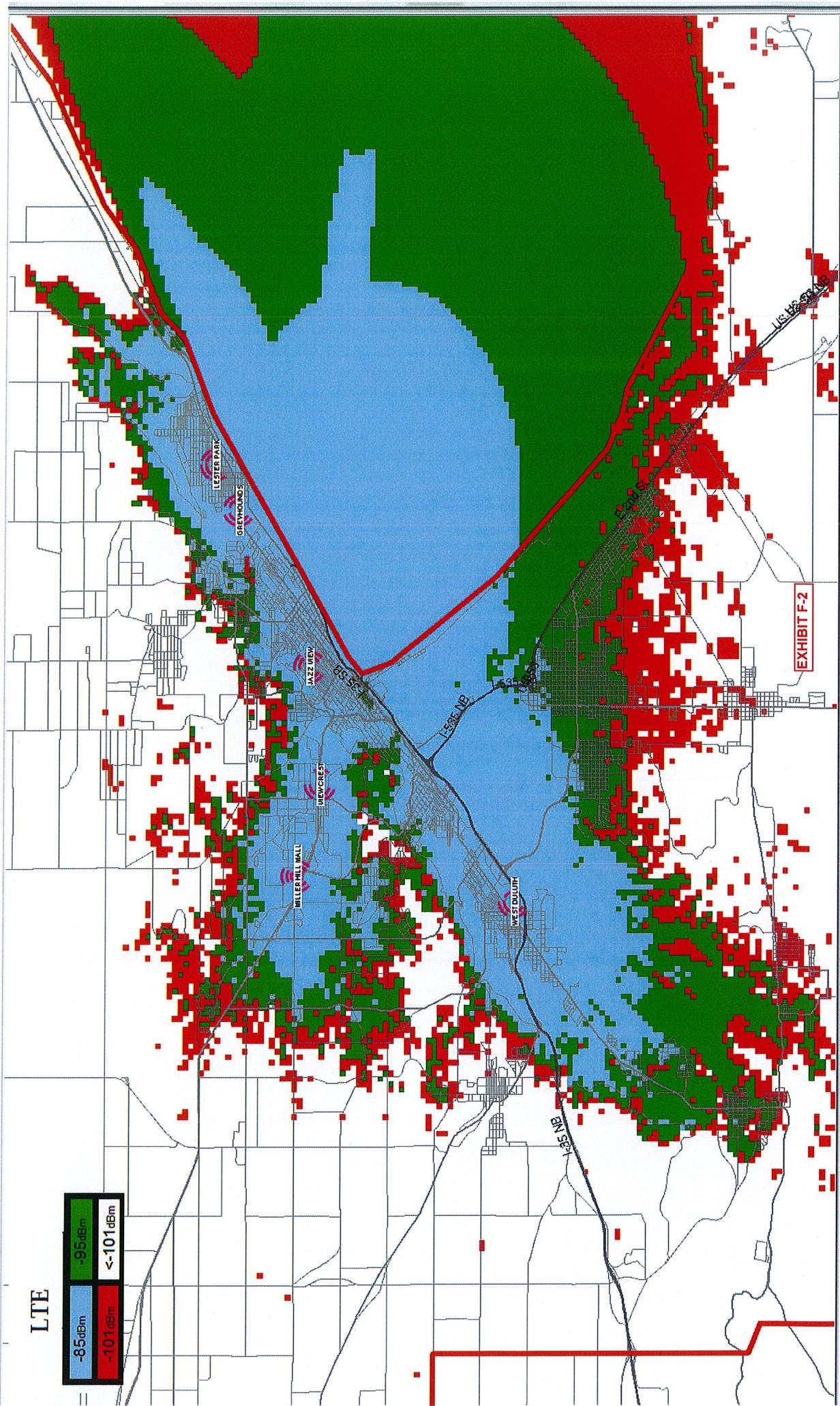
View Description: Looking southeast at proposed equipment shelter and tower extension with antennas.

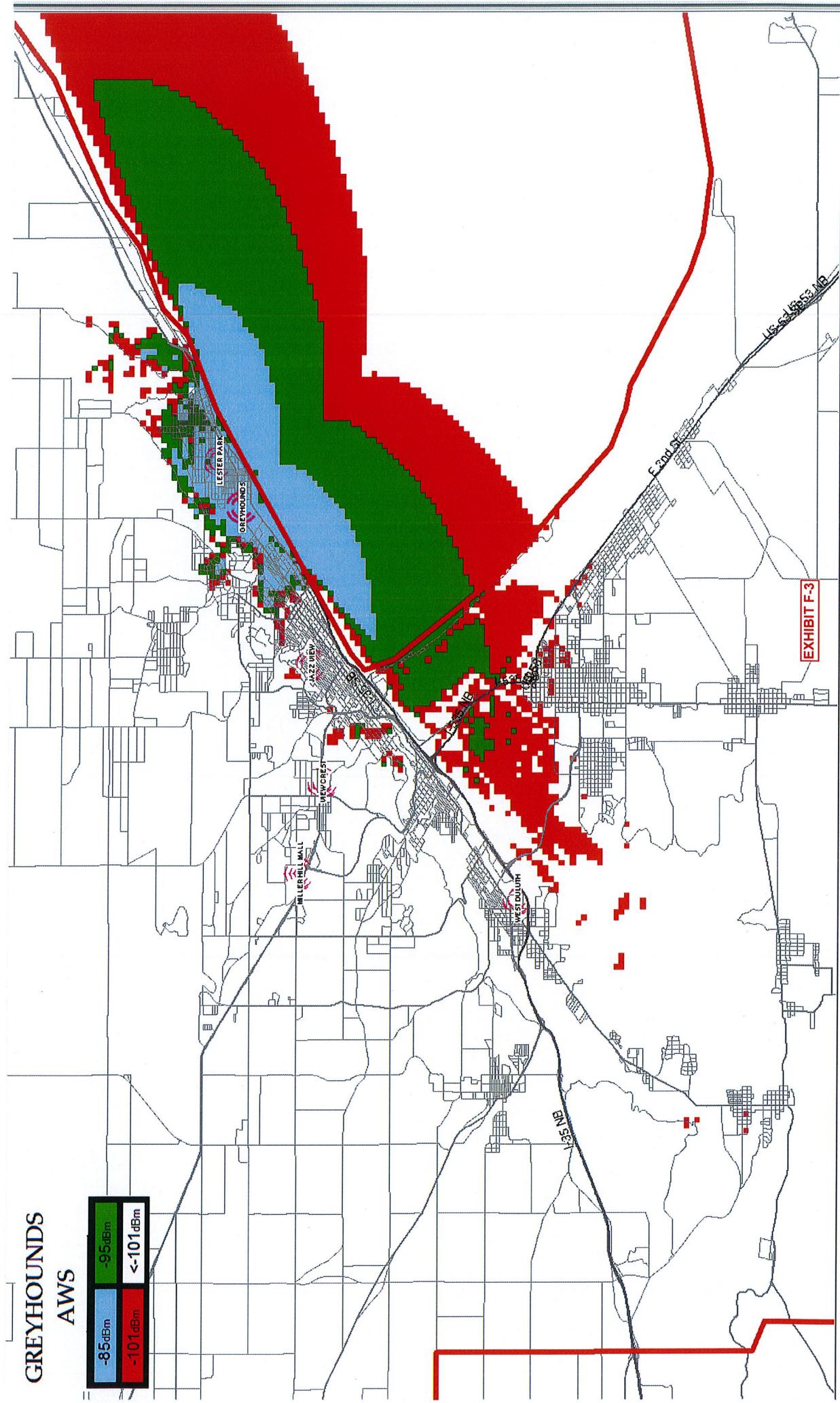
Disclaimer: This picture is an artist's rendition of the completed site layout prior to construction. The completed construction may vary in layout, dimension, and color from the above picture.

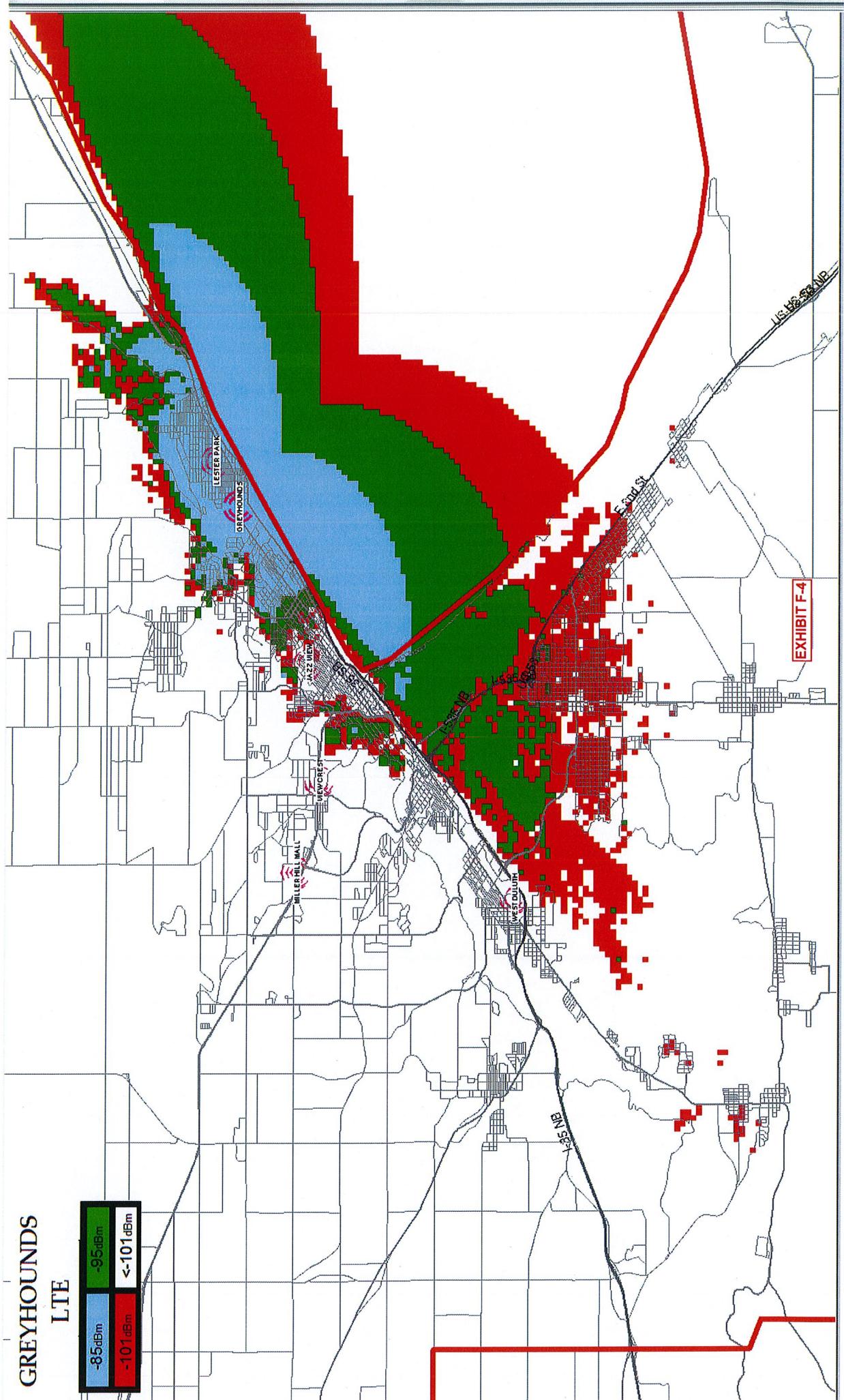
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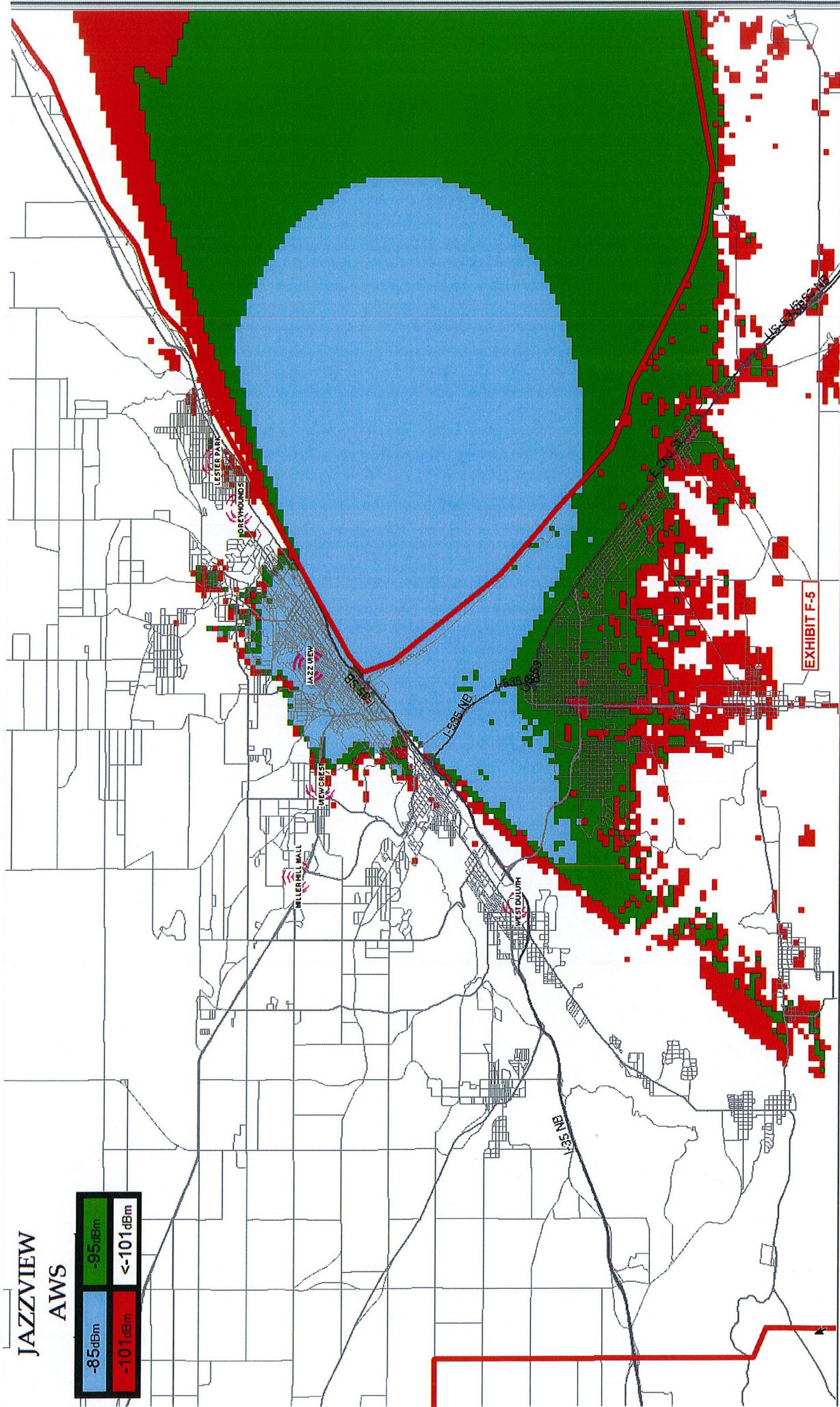


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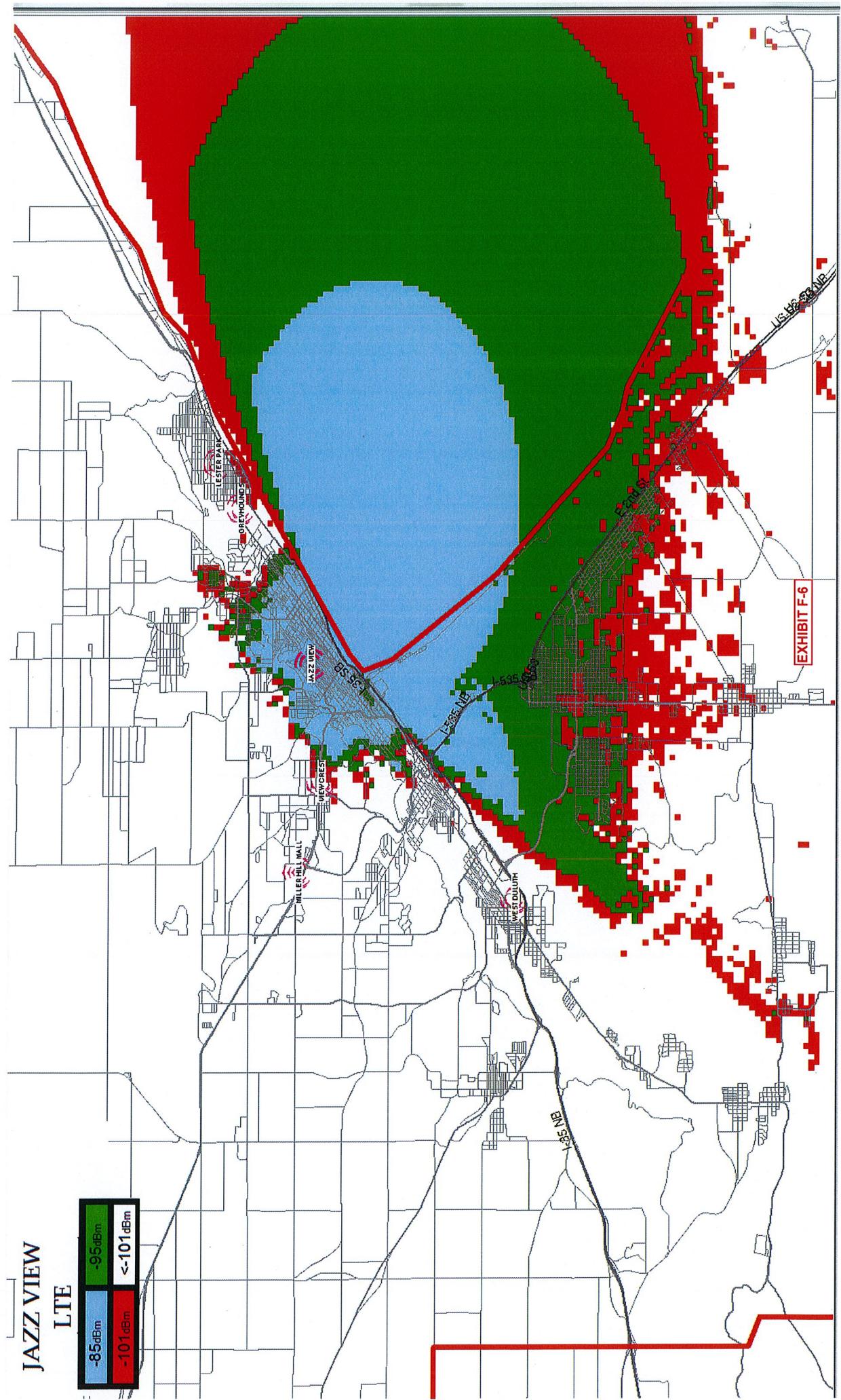


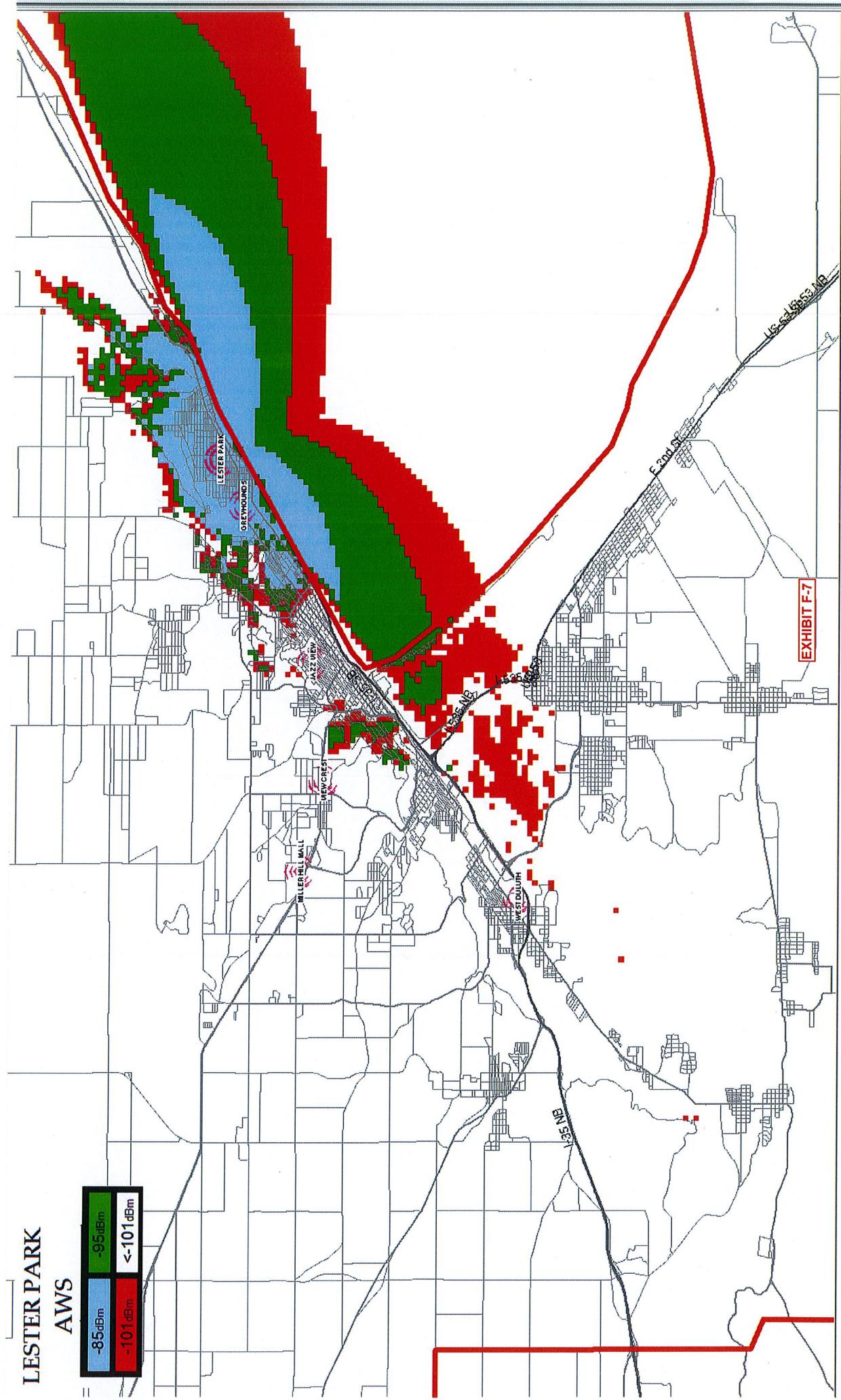


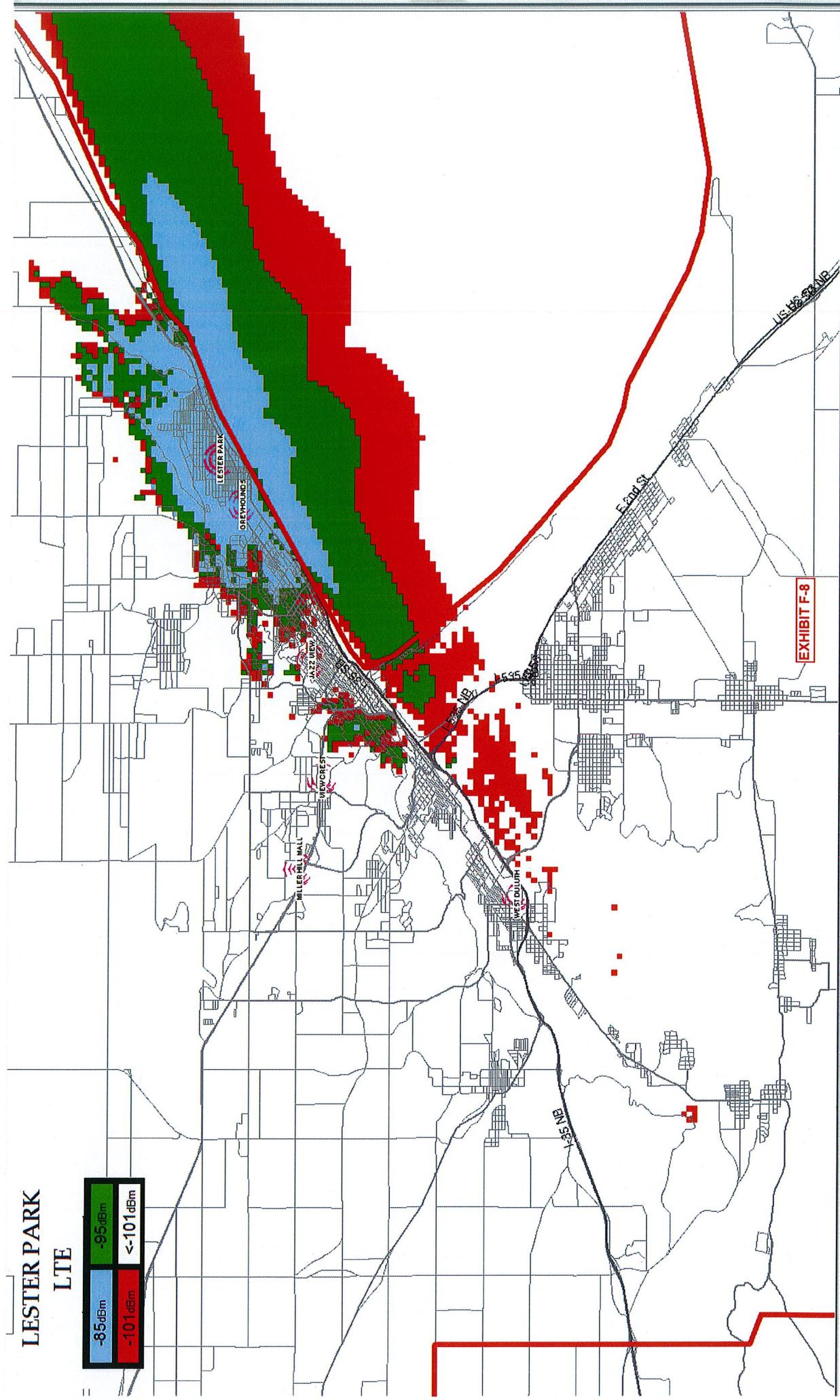


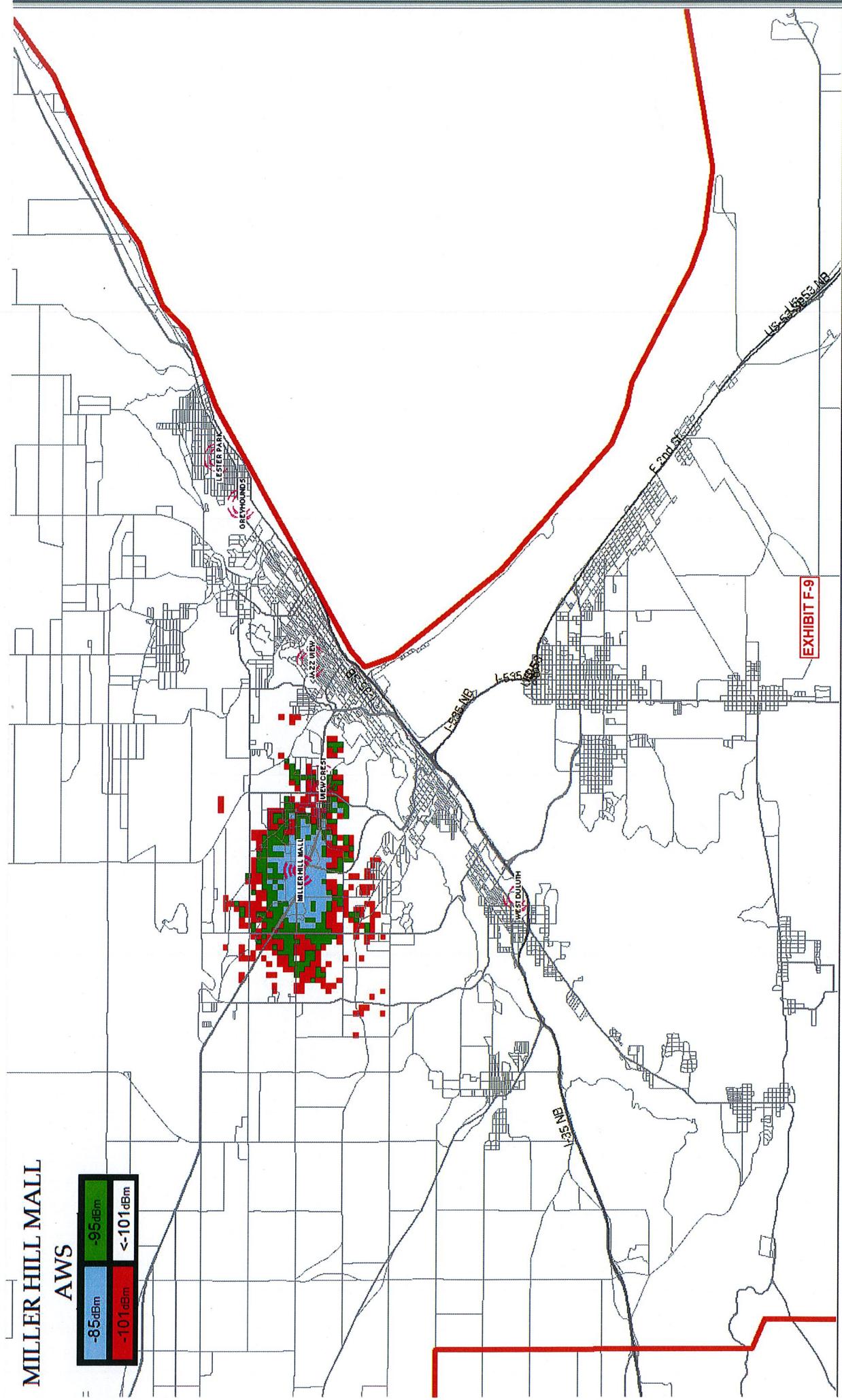


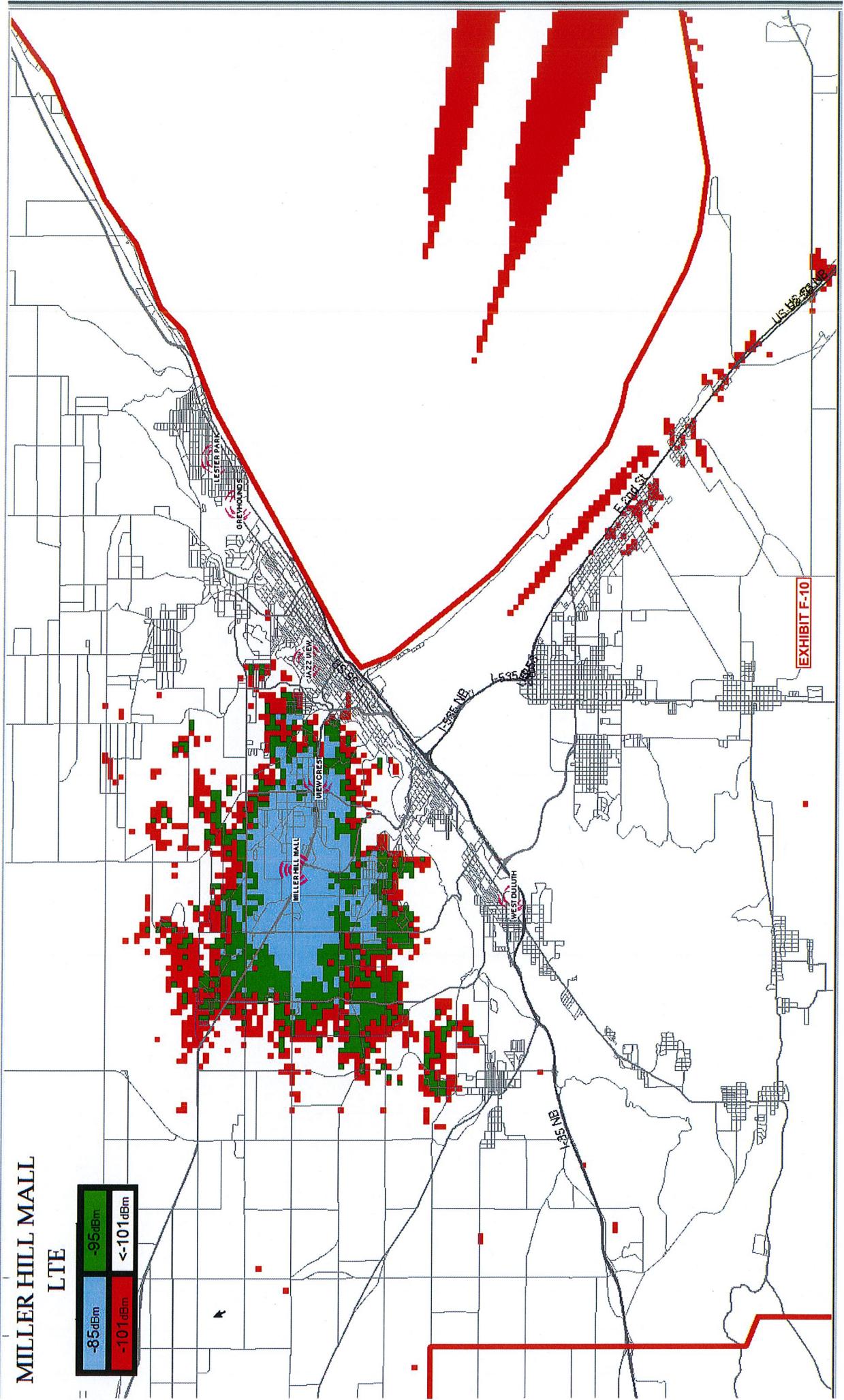
H-30



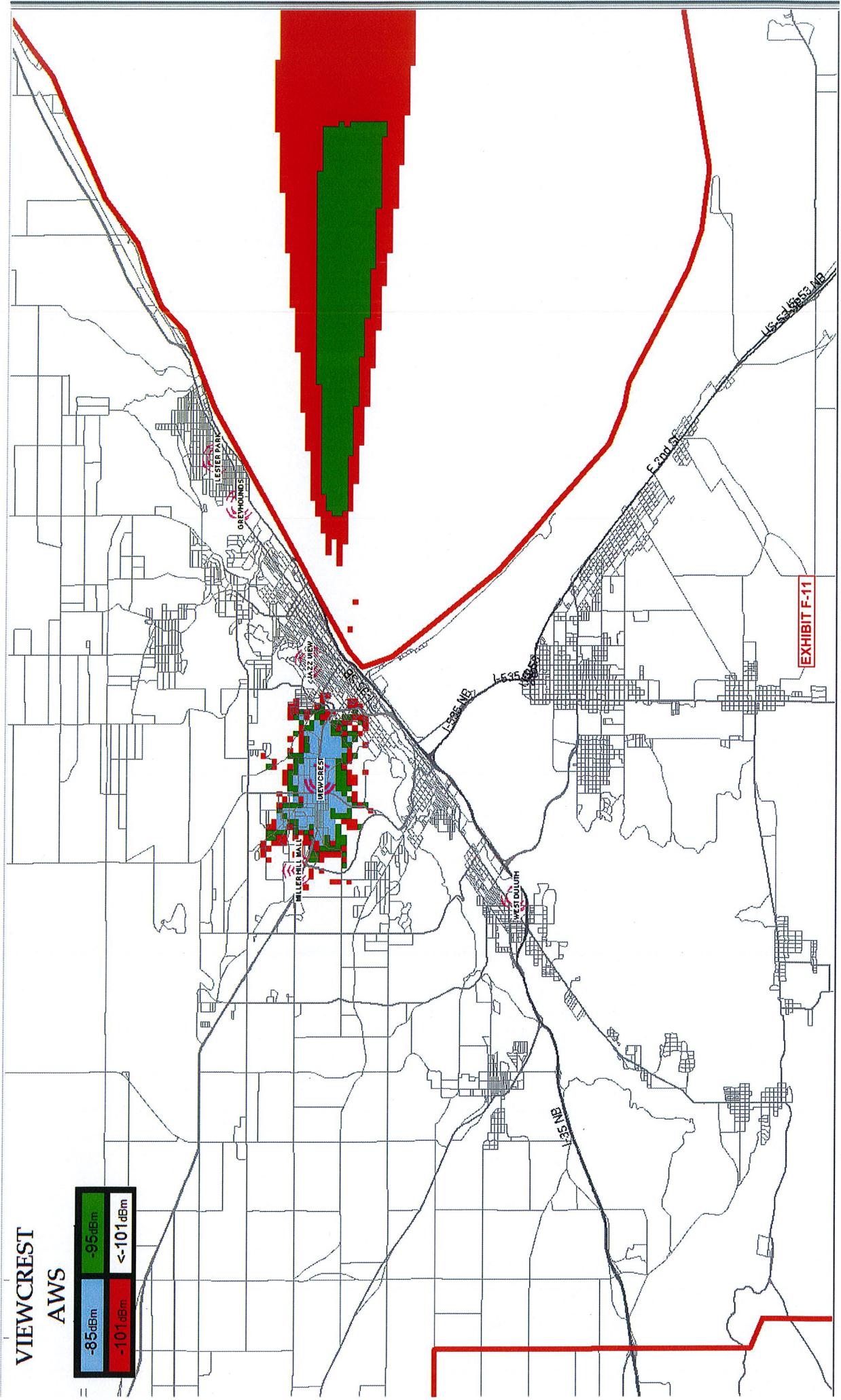


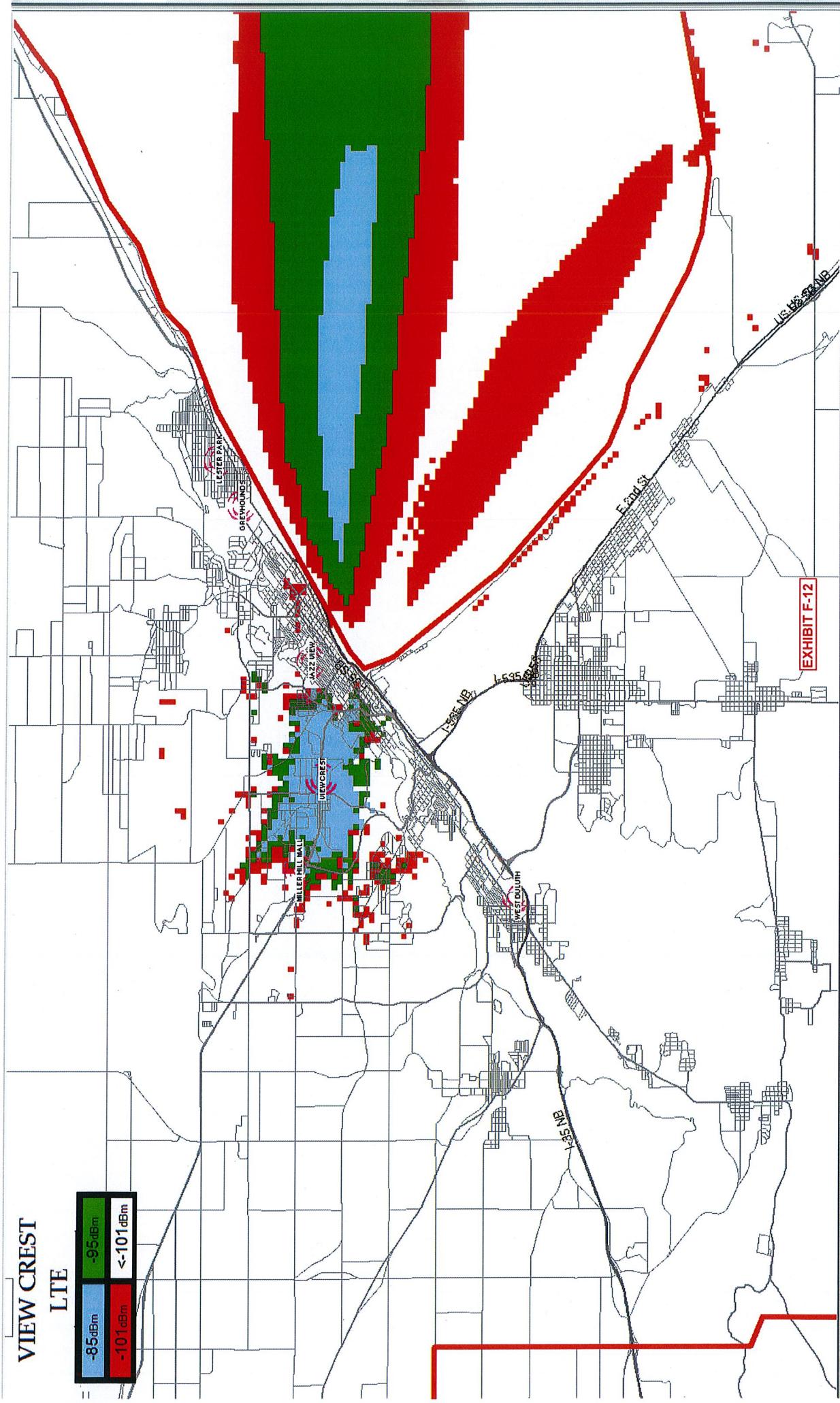


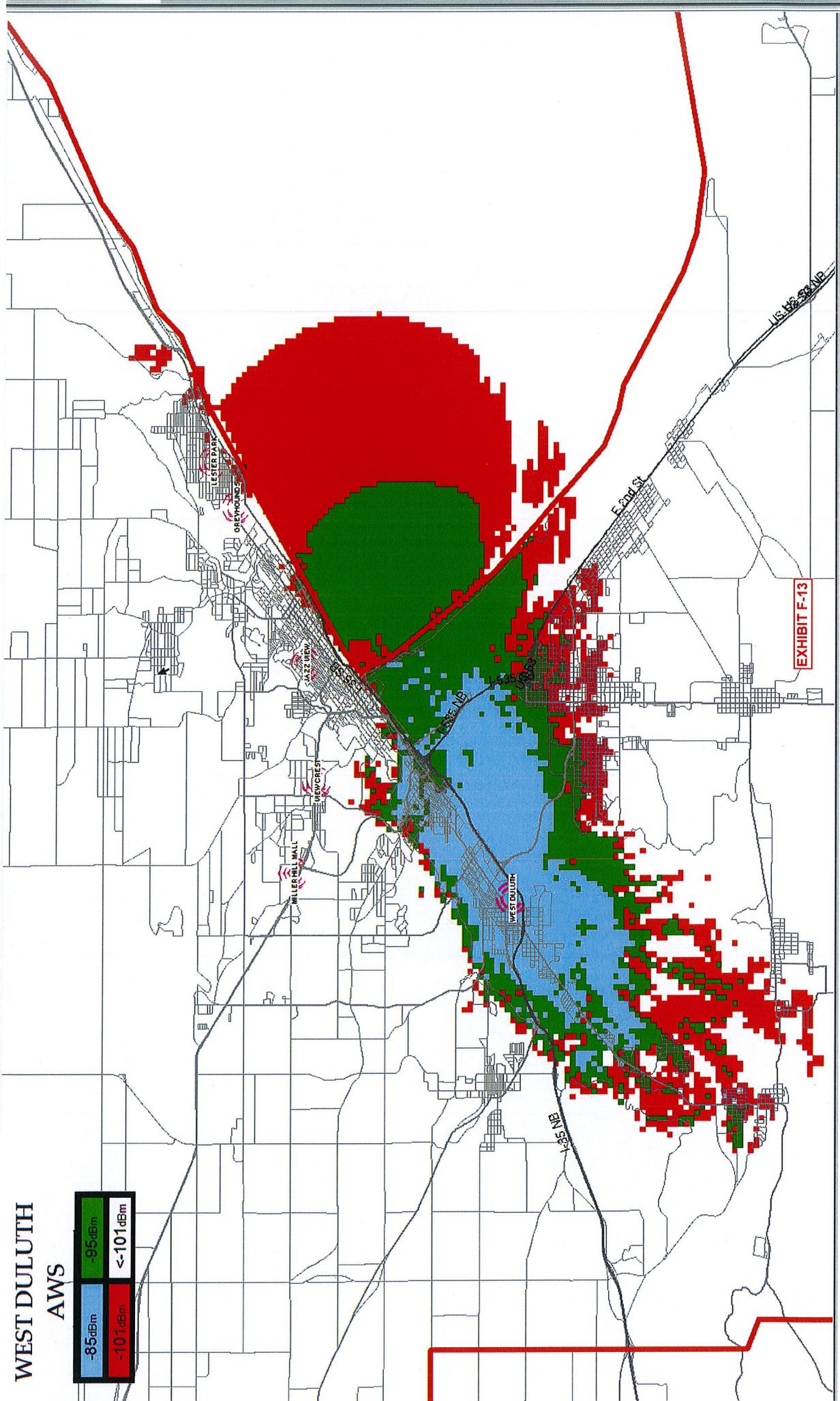


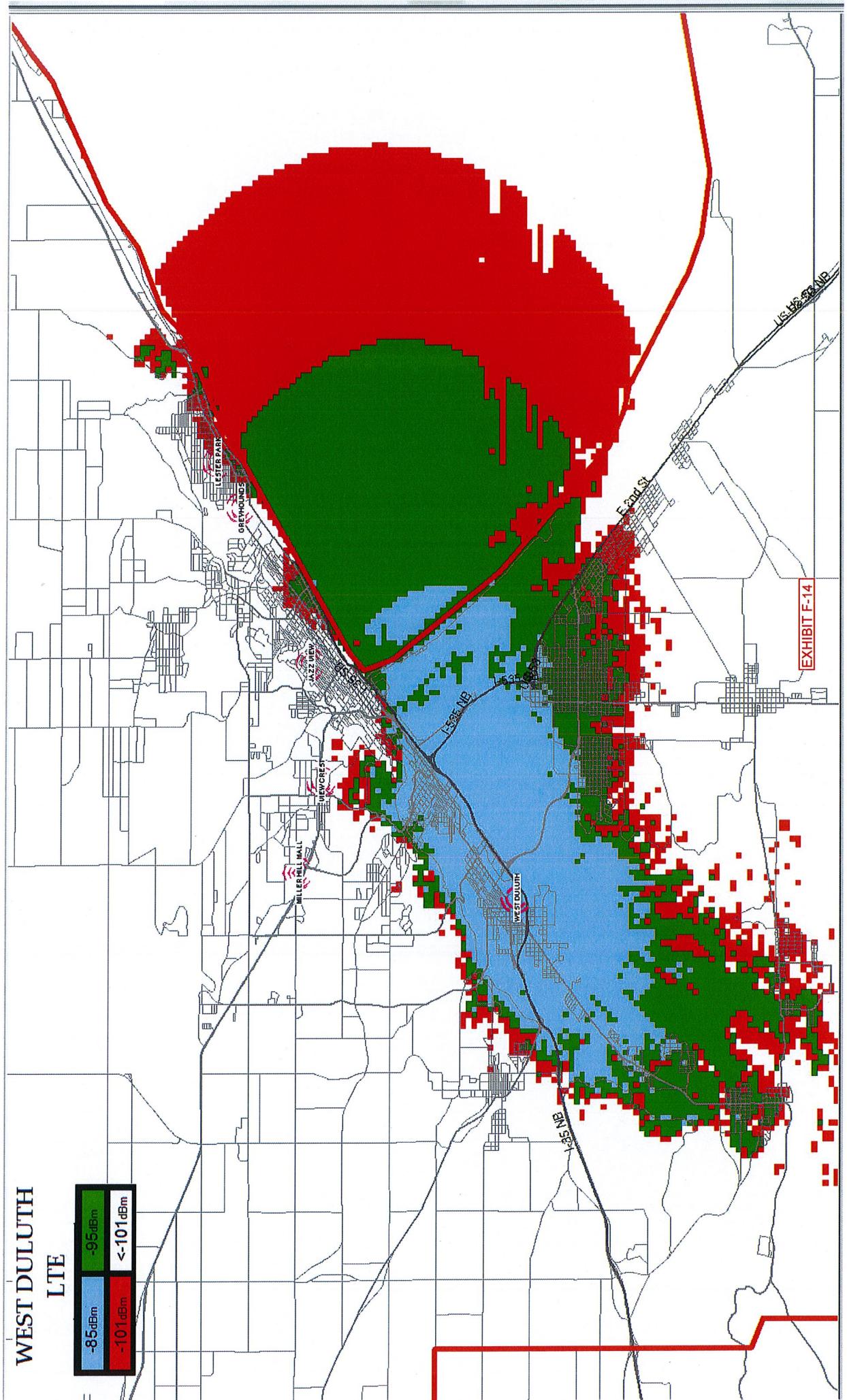


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**Federal Communications Commission - Local and State Government
Advisory Committee (June 2000)**

**A Local Government Official's Guide to
Transmitting Antenna RF Emission Safety:
Rules, Procedures, and Practical Guidance**

APPENDIX A

**Optional Checklist for Local Government
To Determine Whether a Facility is Categorically Excluded**

Purpose: The FCC has determined that many wireless facilities are unlikely to cause human exposures in excess of RF exposure guidelines. Operators of those facilities are exempt from routinely having to determine their compliance. These facilities are termed "categorically excluded." Section 1.1307(b)(1) of the Commission's rules defines those categorically excluded facilities. This checklist will assist state and local government agencies in identifying those wireless facilities that are categorically excluded, and thus are highly unlikely to cause exposure in excess of the FCC's guidelines. Provision of the information identified on this checklist may also assist FCC staff in evaluating any inquiry regarding a facility's compliance with the RF exposure guidelines.

BACKGROUND INFORMATION

1. Facility Operator's Legal Name: Verizon Wireless
2. Facility Operator's Mailing Address: 10801 Bush Lake Road, Bloomington, MN 55438
3. Facility Operator's Contact Name/Title: Cynthia Shuck, Network Real Estate Specialist
4. Facility Operator's Office Telephone: 320-808-2783
5. Facility Operator's Fax: _____
6. Facility Name: DULC View Crest
7. Facility Address: 218 East Central Entrance
8. Facility City/Community: City of Duluth
9. Facility State and Zip Code: Minnesota 55811
10. Latitude: 46 47 59.316 N
11. Longitude: 92 07 41.413 W

continue



EXHIBIT 1

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Optional Local Government Checklist (page 2)

EVALUATION OF CATEGORICAL EXCLUSION

12. Licensed Radio Service (see attached Table 1): LTE-CDMA-AWS
13. Structure Type (free-standing or building/roof-mounted): Free-Standing
14. Antenna Type [omnidirectional or directional (includes sectored)]: Directional
15. Height above ground of the lowest point of the antenna (in feet): 58'
16. Check if all of the following are true:
 - (a) This facility will be operated in the Multipoint Distribution Service, Paging and Radiotelephone Service, Cellular Radiotelephone Service, Narrowband or Broadband Personal Communications Service, Private Land Mobile Radio Services Paging Operations, Private Land Mobile Radio Service Specialized Mobile Radio, Local Multipoint Distribution Service, or service regulated under Part 74, Subpart I (see question 12).
 - (b) This facility will not be mounted on a building (see question 13).
 - (c) The lowest point of the antenna will be at least 32.8 feet (10 meters) above the ground (see question 15).

If box 16 is checked, this facility is categorically excluded and is unlikely to cause exposure in excess of the FCC's guidelines. The remainder of the checklist need not be completed. If box 16 is not checked, continue to question 17.

17. Enter the power threshold for categorical exclusion for this service from the attached Table 1 in watts ERP or EIRP* (note: EIRP = (1.64) X ERP): _____
18. Enter the total number of channels if this will be an omnidirectional antenna, or the maximum number of channels in any sector if this will be a sectored antenna: _____
19. Enter the ERP or EIRP per channel (using the same units as in question 17): _____
20. Multiply answer 18 by answer 19: _____
21. Is the answer to question 20 less than or equal to the value from question 17 (yes or no)? _____

If the answer to question 21 is YES, this facility is categorically excluded. It is unlikely to cause exposure in excess of the FCC's guidelines.

If the answer to question 21 is NO, this facility is not categorically excluded. Further investigation may be appropriate to verify whether the facility may cause exposure in excess of the FCC's guidelines.

*"ERP" means "effective radiated power" and "EIRP" means "effective isotropic radiated power

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<u>Site Name</u>	<u>700/LTE ERP</u>	<u>850/CDMA ERP</u>	<u>1900/PCS EIRP</u>	<u>2100/AWS EIRP</u>	<u>Channel Notes</u>
Jazz View	61.97	273.76	235.95	235.95	4 850 carriers, 1 LTE carrier, 1 PCS carrier, 2 AWS carriers
Lester Park	167.94	590.82	247.98	247.98	4 850 carriers, 1 LTE carrier, 1 PCS carrier, 2 AWS carriers
Steelhead	155.62	N/A	178.13	178.13	0 850 carriers, 1 LTE carrier, 1 PCS carrier, 2 AWS carriers
View Crest	105.45	698.82	N/A	131.74	4 850 carriers, 1 LTE carrier, 0 PCS carrier, 2 AWS carriers
West Duluth	100.48	678.21	N/A	180.6	4 850 carriers, 1 LTE carrier, 0 PCS carrier, 2 AWS carriers
Miller Hill Mall	93.12	364.22	N/A	118.23	4 850 carriers, 1 LTE carrier, 0 PCS carrier, 2 AWS carriers

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